

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

ROBERT DEW,)	CIVIL DIVISION
)	
Plaintiff,)	No: 11-1226
v.)	
)	
CITY OF PITTSBURGH; NATHAN HARPER, Pittsburgh Bureau of Police; PAUL DONALDSON, Deputy Chief, Pittsburgh Bureau of Police; LT. ED TRAPP; DOUGLAS HUGNEY; OFFICER CONDON, Badge No. 3561; OFFICERS DOE 1-100,)	U.S. District Judge Nora Barry Fischer
)	
)	<i>ELECTRONICALLY FILED</i>
)	
Defendants.)	JURY TRIAL DEMANDED
)	

**DEFENDANTS' RESPONSE TO PLAINTIFF'S FIRST MOTION TO
MODIFY SCHEDULING ORDER TO EXTEND FACT DISCOVERY DEADLINE**

AND NOW, come Defendants, CITY OF PITTSBURGH, NATHAN HARPER, PAUL DONALDSON, LT. ED TRAPP, DOUGLAS HUGNEY and DAVID CONDON, only, by and through their counsel, MARSHALL, DENNEHEY, WARNER, COLEMAN & GOGGIN and CITY OF PITTSBURGH LAW DEPARTMENT, and files with the within Response to Plaintiff's Motion to extend fact discovery as follows:

1. Counsel have conferred with regard to Plaintiff's motion and the parties have come to an agreement on Plaintiff's Motion.
2. The parties agree as follows:
 - a. The parties agree to an extension of discovery until July 20, 2012 in order to accomplish the following;

b. Defense counsel will depose Plaintiff first. Plaintiff will provide copies of items referenced in his Notice of Deposition as modified in subsequent communications between counsel;

c. During the time period that Plaintiff's counsel travels to Pittsburgh to defend his client's deposition, the City will then make available the police officers identified in Defendants' Rule 26 Disclosures (Chief Harper, Deputy Chief Donaldson, Cmdr. Trosky, Lt. Trapp, Officers Condon and Hugney and Detective Friburger) and subsequently disclosed (Sgt. Devine) such that Mr. Rhodes will not need to travel to Pittsburgh more than one time;

d. The parties agree that counsel will travel to Miami, Florida, should Plaintiff's counsel desire to take the depositions of the Miami Dade officers identified in the Rule 26 Disclosures (Commander Perez and Lt. Caneva) as well as the one additional officer identified on the Dew video at counsel's request (Officer Bravo);

e. Defendants agree to provide the following documents and things that are available:

- (1) Documentation regarding the decision that the assembly was unlawful, to deploy police officers in Oakland on Friday night (September 25, 2009), to effect arrests and any documents specific to Mr. Dew;
- (2) Defense counsel only recently received a CD from Plaintiff's counsel in other G20 litigation which in turn was received from the Allegheny County Emergency Operations Center pursuant to a subpoena. Defense counsel has agreed to duplicate the CD if that is so desired by Plaintiff's counsel; and
- (3) Defendants will provide documentation regarding the training of police officers regarding protected speech and arrest of protesters.

3. Therefore, Defendants agree to an extension of discovery subject to the limitations set out above.

4. Plaintiff's counsel has reviewed this response prior to being filed with the Court and agrees to limit discovery as described herein.

WHEREFORE, Defendants, CITY OF PITTSBURGH, NATHAN HARPER, PAUL DONALDSON, LT. ED TRAPP, DOUGLAS HUGNEY and DAVID CONDON, only, respectfully request that, to the extent the Court grants Plaintiff's Motion to enlarge the discovery period, that the discovery be limited in nature as set forth above.

Respectfully submitted,

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